

Remarks

Claims 1-42 are pending in the current application.

The Applicant appreciates the indication of allowable subject matter in Claims 13-25, 29 and 34-37.

Rejections Under 35 U.S.C. § 102

The Office has improperly rejected Claims 1-10, 26-28, 30-33, 39, 41 and 42 as being anticipated by Klockseth et al., (hereinafter “Klockseth”).

The Office’s rejection fails regarding numerous elements.

Regarding Claim 1

Klockseth does not disclose a control device...which...controls the operation of the Blower as suggested by the Office. Data collection electronics 16 does not control anything but a light 14 and buzzer 15, there is no disclosure of electronics 16 or pressure sensor 11 controlling the blower 7.

Klockseth states:

This information can be used to provide an alarm when the filter nears or reaches the end of its working life. The alarm is visual by light 14 and audible by buzzer 15. The electronics 16 also monitors the battery voltage, and warns the user of impending batter failure by light 14 and buzzer 15.” Col. 4, 11 37-43.

Klockseth cannot anticipate Claim 1 because it fails to disclose that the pressure sensor 11 and data collections electronics 16 controls the blower 7. The rejection is improper and must be withdrawn.

Regarding Claim 41

Similar to the above, Klockseth does not disclose that the pressure sensor 11 is operatively connected to the blower 7 and clearly does not disclose that the pressure sensor 11 controls an operation of the blower 7.

Klockseth states:

The pump unit 2 also includes data collection electronics 16 which receives inputs from motor 8, battery 9, flow meter 10 and pressure sensor 11, 12 and 13. The collected data may be time stamped every time a record is logged. Data processing logic within the data collection module 16 responds to the inputs to provide warnings to the wearer. Col. 4, II. 27-33.

Klockseth cannot anticipate Claim 41 because Klockseth fails to disclose that the pressure sensor is operatively connected to and controls the blower. The rejection is improper and must be withdrawn.

Regarding Claim 42

Similar to the above, Klockseth does not disclose that the pressure sensor or detection means is operatively connected to the blower or blower means and clearly does not disclose that the pressure sensor 11 controls the operation of the blower 7 or blower means.

There is simply no disclosure of Klockseth for the Office's assertions.

Klockseth cannot anticipate Claim 42 because it fails to disclose that the pressure sensor controls the blower. The rejection is improper and must be withdrawn.

Regarding Dependent Claims 2-10, 26, 30-33 and 39

Klockseth cannot anticipate these dependent claims as Klockseth fails to disclose each and every limitation in independent Claims 1, 41 and 42 from which the dependent claims depend. Therefore, the rejection is improper irrespective of the additional patentable features recited in the dependent claims. The rejections must be withdrawn.

Additional Comments

In addition to the dispositive nature regarding Klockseth's failure to disclose the recited features with respect to Claims 1, 41 and 42, the Applicant asserts that the Office's statements regarding features recited in the dependent claims are of such a nature as to require a rebuttal.

The Office suggests with respect to Claim 10 that it would be inherent that a manually adjustable control function is connected to the processor. The Office's use of inherency is unfounded. For a feature to be inherent, the feature must necessarily be present. The system of Klockseth need not have a manually adjustable control function in order to operate as described, therefore, such a feature by law is not inherent.

With respect to Claims 27 and 28, despite the Office's assertions, there is no disclosure on whether Klockseth uses absolute or gauge pressure, and for the Office to state that Klockseth discloses such is improper.

The Office suggests that the pressure sensor 11 sends a signal to the processor 16 to reduce air flow in regards to Claim 31. The Applicant submits there is no such disclosure in Klockseth.

The Office suggests that the processor 16 transmits a signal to the power source 9 to reduce power with regards to Claim 32. The Applicant submits there is no such disclosure in Klockseth.

The Office suggests that the pressure sensor 11 sends a signal to the processor 16 to terminate air flow with respect to Claim 33. The Applicant submits there is no such disclosure in Klockseth.

Rejections Under 35 U.S.C. § 103

The Office rejected Claims 11-13 and 40 as being unpatentable over Klockseth in view of Truitt, et al. ("Truitt" hereinafter).

Regarding Claim 40, the Office suggests that Klockseth discloses an optoelectric device and that the signals sent from the optoelectric device are received at the processor to activate and terminate blower functions.

The Applicant notes that there is nothing in the disclosure of Klockseth indicating the use of an optoelectric sensor.

In addition, as described earlier, there is no disclosure in Klockseth of signals sent to the processor from a sensor to activate or terminate the blower. The addition of Truitt does nothing to obviate the deficiencies of Klockseth. The combination of Klockseth and Truitt fail to disclose all the recited features in Claim 40. Therefore, a prima facie case of obviousness has not been made. The rejection is improper and must be withdrawn.

Regarding Claims 11-13, Truitt does not obviate the differences of Klockseth with respect to Claim 1. Therefore, the combination of Klockseth and Truitt cannot render Claims 11-13 unpatentable. The rejections must be withdrawn.

Conclusion

The Applicant has demonstrated that Klockseth does not disclose each and every feature recited in Claims 1, 41 and 42, and therefore cannot serve as the basis for an anticipation rejection. The Applicant has also demonstrated that the addition of Truitt does not obviate the deficiencies of Klockseth and the proposed combination still does not disclose each and every feature. The Applicant requests withdrawal of the rejections and allowance of the application including Claims 1-42.

If an extension of time is necessary, the Office is requested and hereby authorized to charge the appropriate extension-of-time fees needed to maintain the application pending against Deposit Account No. 04-1679 to Duane Morris LLP.

If any point remains that is deemed best resolved through a telephonic conversation, the Office is hereby requested to contact the undersigned directly.

Respectfully submitted,

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